

DATE 3/11/2013
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SB 302 Explanation - Senator Arntzen, Revising BPE Rules Review By Legislature

Item in Law	Current Law	SB 302 Difference
Rules required to be submitted to the Legislature for review	All changes to the accreditation standards proposed by the Board of Public Education - See 20-7-101(2) of existing law.	No difference. Same as current law. See Page 1, lines 20-23.
To whom proposed changes to the accreditation standards must be submitted during the interim	Interim Education and Local Government Committee.	No difference. Same as current law. See Page 1, lines 21-22.
To whom proposed changes to the accreditation standards must be submitted when the Legislature is in session.	Current law <i>does not allow the BPE to propose any changes to accreditation standards when the Interim Education and Local Government Committee is not convened</i> . Any rule the BPE wants to adopt between October preceding a legislative session and the June following the session when the Interim Education and Local Government Committee meets must wait until June after the session and, if a substantial fiscal impact is found to exist, cannot be adopted until the end of the next regular session of the Legislature 2 years later.	SB 302 provides a new process to avoid the delay in rules adoption required under current law by providing for submission of proposed rule changes to the Joint Appropriations Subcommittee on Education Appropriations when the Legislature is in session. This is a key difference that resolves a flaw in current law that requires a lengthy delay in the adoption of the BPE's proposed changes to accreditation standards. See Page 1, lines 22-23.
Which proposed rule changes are subjected to a fiscal impact analysis	All proposed changes to the BPE rules. See 20-7-101(2), which provides that the Interim Education Committee <i>"shall request a fiscal analysis to be prepared by the legislative fiscal division."</i>	Only those rules that the Interim Committee believes warrant a fiscal analysis. This is a key difference in SB 302 that allows the Legislature to determine that a proposed rule change need not be subjected to a fiscal analysis. See Page 1, lines 27-28.
Who conducts the fiscal analysis?	The LFD Staff, which has put the LFD in a difficult position that led to substantial acrimony during the last interim period due in part to the LFD's lack of familiarity with K-12 public education and diverse circumstances faced by school districts throughout Montana.	A Qualified Independent Contractor selected by the Interim Committee. Note that the analysis must comply with the same criteria and format for a fiscal note for legislative bills. See Page 1, line 28 through Page 2, line 1.

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What is the standard used for determining fiscal impact?	A substantial impact that cannot be readily absorbed. LFD staff have identified an arbitrary standard of 1% of school district expenditures as an impact that could be readily absorbed without additional funding. This would be either \$10 million per rule, if the 1% is calculated on adopted general fund budgets or \$17 million per rule if the 1% is calculated on total spending. In either case, this standard is unworkable and does not accurately reflect the financial circumstances of Montana's public schools in terms of what could be readily absorbed without additional funding.	Any fiscal impact. See page 2, line 4. This process is better aligned with the Legislature's constitutionally-enforceable definition of the Basic System of Free Quality Schools, which specifically provides that the Accreditation Standards are the minimum standards upon which the Basic System of Free Quality Schools must be built.
What is done with a rule that has a fiscal impact?	Provided to the Office of Budget and Program Planning for their discretionary consideration.	Must be included in the Present Law Adjustment in OPI's proposed budget submitted as part of the Executive Budget. This improves the process by ensuring the Legislature gets to review and determine whether to fund a proposed change to rules by the BPE.
How long would the BPE have to wait to adopt a change to its accreditation standards if it wanted to do so right now?	July 1, 2015. This is because the current law requires submission to the Interim Education and Local Government Committee, which won't meet until next June and thereafter requires that the rule cannot be adopted until the completion of the next regular session of the Legislature, which will be July 1, 2015.	July 1, 2013. This is a substantial improvement in SB 302 by allowing submission of a proposed rule change during the session to the Joint Appropriations Subcommittee.